



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

November 18, 1957

Hon. P. D. Thornton, Jr.
County Attorney
Mt. Pleasant, Texas

Opinion No. WW-298

Re: Whether that portion of
Article 7298 with reference
to allowing four-year
Statute of Limitations to be
pleaded against collection
of personal property taxes
is violative of Article III,
Section 55 of the Constitution.

Dear Mr. Thornton:

In your letter requesting our opinion you propound
the following question:

"Is that portion of Article 7298 with
reference to prohibiting suits to collect
delinquent taxes on personal property delin-
quent more than four years in violation of
Article III, Section 55, of the Constitution?"

Article 7298, Vernon's Civil Statutes reads as follows:

"No delinquent taxpayer shall have the right
to plead in any court or in any manner rely upon
any Statute of Limitation by way of defense against
the payment of taxes due from him or her to the
State, or any county, city, town, Navigation Dis-
trict, Drainage District, Road District, Levee
Improvement District, Reclamation District, Irriga-
tion District, Water Improvement District, Water
Control and Improvement District, Water Control
and Preservation District, Fresh Water Supply Dis-
trict, School District or other taxing authority;
provided that this law shall not apply to collection
of delinquent school taxes assessed prior to July 1,
1941; and provided further that no suit shall be
brought for the collection of delinquent personal
property taxes of any taxing authority unless insti-
tuted within four (4) years from the time the same
shall become delinquent."

Article III, Section 55, of the Texas Constitution
provides:

"The Legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in part, the indebtedness, liability or obligation of any corporation or individual, to this State or to any county or defined subdivision thereof, or other municipal corporation therein, except delinquent taxes which have been due for a period of at least ten years."

The Supreme Court in Sam Bassett Lumber Co. v. City of Houston, 145 Tex. 492, 198 S.W.2d 879, held that the 1931 amendment of Article 7298 which allowed ten-year Statute of Limitation to be pleaded against the collection of school taxes was not violative of Article III, Section 55, of the Constitution. The Court stated that such limitation Statutes do not release or extinguish the debt, but merely affect the remedy when its enforcement is sought.

You are therefore advised that the provision of Article 7298, V.C.S. allowing four-year Statute of Limitations to be pleaded against collection of personal property taxes is not violative of Article III, Section 55, of the Constitution.

S U M M A R Y

The provision of Article 7298, V.C.S. allowing four-year Statute of Limitation to be pleaded against collection of personal property taxes is not violative of Article III, Section 55, of the Constitution.

WVG:gs

Yours very truly,

APPROVED:

WILL WILSON

Attorney General of Texas

OPINION COMMITTEE


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By W.V. GEPPERT
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REVIEWED FOR THE ATTORNEY GENERAL
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